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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,494	01/27/2004	James Dale JR.	66396-128	6257
7590 09/26/2005 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER RAEVIS, ROBERT R	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,494

Applicant(s)

DALE, JAMES

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,9 and 25-28 is/are rejected.
- 7) ☒ Claim(s) 2,6,7 and 10-12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/04, 1/04, 2/05</u> | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

As to claim 28, please delete the " + " (on line 1).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gender.

Gender et al teach (Figure 3A) an apparatus for calibrating a wheel aligner, comprising: a frame 42 with mounting structure for supporting heads 10 of the aligner system, wherein the apparatus is "portable" (col. 7, line 51), and the frame is configured so that the mounting structure supports the heads. Calibration at "intervals" (col. 2, line 5) allows for checking of accuracy.

Gender does not expressly relate the dimensions of the frame to those of a vehicle which may be measured, though does express that the fixture is "kept small" (col. 7, line 52) for purposes of portability and keeping "costs down" (col. 7, line 51).

As to claim 25, either (1) the apparatus of Gender may be used to calibrate an aligner that tests alignment of a small vehicle, or (2) it would have been obvious to

employ a vehicle size apparatus (that necessarily raises costs) because it is desirable to calibrate a measuring system with a calibration piece that is of the same dimensions as the articles to be tested by that same measuring system.

Claim 25 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gender.

Gender et al teach (Figure 6A) an apparatus for calibrating a wheel aligner, comprising: a 64 inch long frame 55 with mounting structure for supporting heads 10 of the aligner system, wherein the frame is configured so that the mounting structure supports the heads. Calibration at "intervals" (col. 2, line 5) allows for checking of accuracy.

Gender does not expressly relate the dimensions of the frame to those of a vehicle which may be measured, and does not classify the device of Figure 6A as portable.

As to claim 25, the apparatus of Gender may be used to calibrate an aligner that tests alignment of a small vehicle. In addition, the apparatus of Figure 6A is movable, and thus portable.

Claims 26- 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gender et al.

As to claim 26, comments that exist above similarly apply here. Also, note that each transducer each transducer is range calibrated in that it is adjusted to produce a change in its measurement due to a change in its angular position such that the change in measurement equals the change in the angular position. This corresponds to

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recording the change in measured value, and comparing that change with the change in the angular position. (See col. 1, lines 34-47.) This is suggestive of use of the same to calibrate with Gender's.

As to claim 27, note the axles 43,44 and various other elements 45,46,42.

As to claim 28, note that Gender suggests (col. 1, lines 62+, and continuing on to col. 2, line 2) use of a computer to acquire data, store, calculate and produce results, suggestive of use of same to calibrate with Gender's fixture.

Claims 1,3-5,8,9,25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over DSP400 in view of either Steiff et al or Gender et al.

DSP400 teaches (page 18) an apparatus including front and rear axles that support front and rear targets that are 120 inches from one another. The targets are connected to the axles by stubs that extent through supports, as readily visible in the top figure of p. 22.

The axles are not connected together via spacers.

As to claims 1,5,8,25,26, it would have been obvious to connect the axles together with spacers as either Stieff et al (Figure 4) or Gender et al (Figure 3A) teach connecting axles together to support a calibrating vehicle in its entirety for testing. Such spacers allow to assure maintain DSP's "120 inches" spacing.

As to claims 3,4,9, not all vehicles have a "120 inch" spacing. In addition, it would have been obvious to employ adjustable spacers to permit for testing different vehicle sizes.

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As to claim 26,28, see the top figure of p. 32 of DSP400, which displays results, suggestive of providing evidence of approval.

As to claim 27, see the last parargrap of p. 32, which provides for disassembly.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jackson et al teaches positioning a rod 160 both along and perpendicular the wheel ramp. Stieff et al teach (Figure 4) a calibration fixture.

Claims 2,6,7,10-12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 13, note was made of line 6 with remaining limitations, line 6 somewhat paralleling the subject matter of claim 6. As to claim 21, note was made of line 7-8 with remaining limitations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

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